

DIST/OFFICE	DOCKET YR.	NUMBER	FILING DATE MO. DAY YEAR	J	N/S	O	R	R 23	S	DEMAND OTHER	JUDGE NUMBER	JURY DEM.	DOCKET YR.	NUMBER
1085/4	75	0183	05 13 75	2	862	1				Remand case to Sec NEW	8512 8516 8509		75	0183- 8 3

PLAINTIFFS

OHLER, Ovel W.

DEFENDANTS

SECRETARY OF HEALTH, EDUCATION,
and WELFARE OF THE U.S. OF
AMERICA

CAUSE

T. 42, U.S.C., Section 405(g)

Review of decision of appeals council in re Black Lung Case.

ATTORNEYS

H. K. Westmoreland
~~405 Merchants Bank Building~~ P.O. BOX 603
Fort Smith, Arkansas ~~72901~~ 72902
(501-785-1313)

or (501) 783-8460

8-746-5011

Robert P. Santee

Asst. U. S. Atty.
460 U. S. Courthouse
Tulsa, Oklahoma

<input type="checkbox"/> CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID			STATISTICAL CARDS	
	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
				JS-5	6-1-75 (12-1-79)
				JS-6	1-1-78

DATE	NR.	PROCEEDINGS
5-13-75	1.	cc of Order transferring case from the E.D. of OK, U.S. Dist. Ct., to the N.D. of OK, U.S. Dist. Ct., filed. (JWM-J)v
5-13-75	2.	Compl. for Special Judicial Review of Administrative Determination on Black Lung Benefits for Remand of this Case to the Secretary of Health, Education and Welfare for further action by the Secretary, filed. v
5-28-75		Return on U.S. Marshals Service, Compl. and Summons, filed. Served U.S. Atty. Gen. and Sec. HEW in Wash., D.C., by cert. mail on 5-5-75. v
6-6-75	3.	Appl. for Admission of Non-Resident Atty. for Limited Practice, filed by Horace King Westmoreland, Atty. for Pltf. v (o)
6-6-75	4.	Order, filed, admitting Horace Westmoreland to practice law in re this case before this Court. (AEB-J)v
7-9-75	5.	Motion for enlargement of time within which to ans. or otherwise plead, filed. (o to J)
7-11-75	6.	Letter from H.K. Westmoreland stating he has no obj. to ext. of time being granted Deft. to file ans., filed. v
7-14-75	7.	Order, filed, that deft. SEcy. of HEW is granted an enlargement of time to ans. or plead from July 7, 1975 to 9-7-75. (AEB-J)jj
9-5-75	8.	Motion for enlargement of time within which to answer or otherwise plead, filed. lm (o to J)
9-8-75	9.	Letter, filed, from H. K. Westmoreland to Clerk's Office stating Pltf. has no objection to Deft. having an ext. of time to file ans. v
9-10-75	10.	Order, filed, that deft have to 11-7-75 to ans. or otherwise plead. lm
11-6	11.	Answer, filed. lm
11-20	12.	Mot. for Remand, Brief & Proposed Order for Remand, fld. by Pltf. v
11-20	MO:	Ordered that Deft. is granted 10 days from this date to respond to Pltf.'s mot. for remand, brief. (AEB-J)v cps mld.
12-3	13.	Response of govt., filed. hm
1976		
1-26	MO	Case referred to Mag. Bradford for F&R re pending mots. (AEB-J)k
3-3	MO	Case set for hrg. before Mag. Bradford on pltf's mot. to remand on 3-24-76 at 9:00 a.m. (MLB-Mag)k ntc by KT
3-5	14.	Mot. of Pltf. to strike setting of Pltf.'s Mot. to Remand, fld. v (o)
3-24	15	Order, filed, striking hrg. before Mag. on pltf's mot. to remand. (MLB-Mag)k cps mld
5-13	16.	Order, filed, that Plaintiff's Motion to Remand be and the same is hereby overruled. (AEB-J)k cps mld
5-25	17.	Petition of pltf. to proceed in f.p.on appeal, filed. rm (copy to counsel and USCA)
6-1	18.	Order (as part of petition) granting pltf. leave to proceed f.p. (AEB-J) rm (copies to counsel and USCA) (contd.)

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT		DOCKET NO. <u>75-C-183-B</u>
OVEL W. OHLER		SEC. OF HEW		PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS		
6-1-76	19.	Notice of appeal by pltf. from Order overruling pltf. mo/remand on 5/13/76, filed. rm (copies to counsel and USCA)		
6-24		Appeal record (orig. + 3 cpies) sent to USCA. g		
2-14-77		Mandate and Opinion of 10th Circuit, filed and spread of record, that appeal is dismissed because order appealed from is not a final and appealable order. rm		
3-18	20.	Pltf.'s appl. to file pldg. to final judgment, fld. v -cpy to Marilyn.		
4-1	MO	Parties are directed to hold PT conference on or before 5-13-77 and file a PTO on or before 5-20-77. (AEB-J)k cps mld		
6-6		Original appeal record (1 vol.) received from USCA.rm		
6-8	21.	Pre-trial Order, filed. (AEB-J)k cps mld		
6-14	MO	Case referred to Mag. Robert S. Rizley for findings and recommendations. (AEB-J)k		
7-25	MO	Parties are directed to file simultaneous brief in support of their positions within 30 days. (RSR-Mag)k cps mld		
8-18	22	Pltf. brief fld. ho		
8-24	23	Deft. brief in supp. of mot. to affirm. fld. ho		
12-14	24	Cts. memorandum, fld. & entered, IT IS ORDERED that judgment be entered in favor of the Deft. and against the Pltf. (AEB-J) c/m ho		
12-14	25	Judgment, fld. & entered, IT IS ORDERED that judgment is hereby entered in favor of the Deft. & against the Pltf. (AEB-J) c/m ho		
12-22	26	Notice of appeal by pltf. from judg. of 12/14/77, filed. copy to USCA		
12-28	27	Pltf. pet. to proceed in forma pauperis, fld. ho 0 as part of appl. to J.		
12-28	--	Order, as part of pet., filed, granting pltf. leave to proceed w/out prepayment of costs or fees or the necessity of giving security therefor. (AEB-J)k cps mld + USCA		
1-23-78	----	Appeal record (orig. + 1) sent to USCA. rm		
2-3	---	Letter from 10th Circuit, assigning No. 78-1064. rm		
10-10-78	28.	Mandate and opinion of 10th Circuit, filed and spread of record, reversing and remanding cause w/directions to send back to HEW for further deliberation in view of considerations discussed in opinion and to take addl. relevant evidence. rm		
10-16-78		Appeal record rec'd from USCA. g		
10-30	29	Order remanding, fld. & entered, It is ordered that this case is remanded to the Sec. of HEW of the U. S. for further proceedings pursuant to the opinion rendered by said Ct. (AEB-J)ho c/m		
<u>1979</u>				
11-5	30	MOTION of pltf for Summary Judgment/Order/Decision.ra (brief to be in)		
11-8	MO:	ORDERED that pltf. is granted perm. to file brief on 8 1/2 x 11 paper. (HDC-J)hm		
(over)				
DC-111A (Rev. 1/75)				

(over)

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT		DOCKET NO. _____
		JUDGE BRETT		PAGE ____ OF ____ PAGES
DATE	NR.	PROCEEDINGS		
11-8-79	31.	BRIEF of pltf. hm		
11-9	MO:	ORDERED that deft. is directed to file resp. brief to pltf's motion for S/J by 11-23-79. (HDC-J)hm		
11-9	MO:	CASE TRANSFERRED TO JUDGE THOMAS R. BRETT.(JCS-CLK)jc		
11-30	32	MOTION of deft. for ext. until 12-21-79 to resp. to pltf's mot/SJ.k (O)		
12-5	33	ORDER that deft Sec. of H.E.W. have until 12-21 to resp to mot/S.J. (TRB-J)ra c/m mvt		
12-14	34	MEMORANDUM in Support of Deft's of Mtn. for S/J.jc		
1-2-80	---	ADMINISTRATIVE TRANSCRIPT of proceedings before HEW. rm		
2-6-80	35	MEMORANDUM ORDER that pltf's. motion for S/J is overruled and that judgment be entered in favor of the defendant and agst. pltf. (TRB-J)cs cps/mld.		
2-6-80	36	ORDER that judgment be entered in favor of deft. Secretary of Health, Education and Welfare of the U.S.A. and against the pltf. Ovel W. Ohler.(TRB-J)cs cps/mld.		
2-20	37	PETITION of pltf. to proceed on appeal in f.p.rm(o to j w/petition).		
2-21	---	ORDER (as part of petition) granting pltf. leave to appeal in f.p. (TRB-J)rm-c/m		
2-21	38	NOTICE of appeal by pltf. from order of 2/5/80. rm - c/m counsel and USCA		
3-3	---	LETTER from 10th Circuit, assigning No. 80-1269. rm		
3-5	39	NOTICE of transcript order. (tr. already on file)rm - c/m 10th Cir.		
3-10	40	CERTIFICATE of designation of record on appeal of pltf. rm		
3-10	----	RECORD ON APPEAL (2 vols) transmitted to 10th Circuit. rm		
<u>1981</u> 8-31	41	MANDATE & OPINION of 10th Cir., affirming. rm		
9-2	--	APPEAL RECORD (2 vols) received from 10th Cir. rm		